

Inquiry Representation Cover for Occupational Health and Safety Professionals in Ireland Policy Wording

IMPORTANT INFORMATION

Please read and make sure you understand the full Policy of Insurance and check that the details shown on the Schedule are correct. If you have any queries please contact Trafalgar Risk Management Limited through our contact page on www.trafalgar.uk.com

The notes that follow are intended as a guide; the full terms and conditions are contained in the Policy.

CLAIMS

If you need to notify a possible claim, please immediately write to Abbey Legal Protection at Minorities House, 2 - 5 Minorities, London EC3N 1BJ or fax 0870 600 1481. You should provide your Policy number and brief details of the circumstances. A claim form will be sent to you for completion and this must be returned without delay. Please note that in certain circumstances (as shown on the Schedule Abbey Legal Protection will choose a suitable legal representative to act on your behalf.

COOLING OFF PERIOD

If you are an individual acting for purposes outside of your trade, business or profession then you have a right to change your mind and cancel this insurance with effect from inception. You may change your mind within 14 days of insuring or within 14 days of receiving full policy documents by writing to your broker requesting cancellation and returning the policy documents to Trafalgar Risk Management. No charge will be made and any premium you have paid will be refunded.

This is a "claims made" insurance. This insurance only covers claims notified to the Coverholder during the Period of Insurance.

Whereas the Insured has submitted a written proposal and declaration or renewal declaration to the Insurer it is agreed this shall form the basis for the issue of this Policy.

The Insurer agrees in consideration of the premium to indemnify the Insured to the extent and in the manner provided within this Policy in connection with activities within the scope and extent of the Business Description of the Insured.

Unless expressly stated nothing in this Policy will create rights pursuant to the Contracts (Rights of Third Parties) Act 1999 in favour of anyone other than the parties to this Policy.

DEFINITIONS

Acts of Parliament

All Acts of Parliament referred to in this Policy shall include any subsequent amendments, re-enactments or regulations and equivalent legislation enforceable within the Territorial Limits.

Agent

The Agent Appointed by the Delegated Agent to transact this Insurance.

Any One Claim

All claims or legal proceedings consequent upon the same original cause, event or circumstance.

Appointed Representative

A consultant, solicitor, barrister or other appropriately qualified person appointed by the Policyholder to act for the Insured in accordance with the terms of this Policy.

Business Description

As specified in the Schedule.

Coverholder

Abbey Legal Protection a trading division of Abbey Protection Group Limited, who manages this insurance on behalf of the Insurer.

Delegated Agent

Trafalgar Risk Management Limited whom arranges this Insurance.

Employee

Any person under a contract of service with the Insured.

Excess

The amount specified in the Schedule the Insured must pay in respect of Legal Expenses in respect of Any One Claim before the Insurer shall be liable to make any payment.

Increased Excess

The amount specified in the Schedule the Insured must pay in respect of Legal Expenses in respect of Any One Claim before the Insurer shall be liable to make any payment if the Insured instructs an alternative Appointed Representative to the one chosen by the Coverholder.

Inquiry Representation Cover for Occupational Health and Safety Professionals in Ireland

Policy Wording

Insured

The Company, firm, partnership or trading individual specified in the Schedule being a client of the Agent and, at the Insured's request, any Employee including a director or partner of the Insured.

Insurer

Brit Insurance Limited 55 Bishopsgate, London, EC2N 3AS.

Legal Expenses

- i) Any fees, expenses and other disbursements including VAT if not recoverable reasonably incurred by the Appointed Representative with the Insurer's Agent's consent including costs and expenses of expert witnesses.
- ii) Any costs incurred by other parties insofar as the Insured is held liable in court or tribunal to pay such costs or becomes liable under a settlement made with another party with the consent of the Insurer's Agent.

Period of Insurance

As specified in the Schedule.

Territorial Limits

As specified in the Schedule

LIMITS OF INSURER'S LIABILITY

The maximum liability of the Insurer under this Policy is limited to the amounts specified in the Schedule for 1 and 2 below:

1. Any One Claim
2. all claims notified during the Period of Insurance.

SECTIONS OF COVER

The Insurer will only indemnify the Insured for Claims where the dispute legal proceedings are or would be within the Territorial Limits and the Claim is notified during the Period of Insurance.

INQUIRY REPRESENTATION COVER

The Insurer agrees to indemnify the Insured against Legal Expenses incurred in their capacity as a Health & Safety Consultant at an inquiry providing it is permissible for the Insured's legal representative to participate in the proceedings, and participation in the inquiry is not solely as a witness.

EXCLUSIONS

The Insurer shall not be liable to indemnify the Insured in respect of:

1. the defence of the Insured in civil legal proceedings arising from:
 - i) injury or disease including psychiatric injury and stress;
 - ii) loss, destruction or damage of or to property;
 - iii) alleged breach of any professional duty;
 - iv) any tortious liability
2. any dispute, legal proceedings made, brought or commenced outside the Territorial Limits;
3. Legal Expenses incurred without the prior written consent of the Coverholder or in excess of the Coverholder's consent;
4. any Claim relating to or arising from any cause, event or circumstance occurring prior to or existing at inception of this Policy and which has or which the Insured knew or ought reasonably to have known may give rise to a dispute, legal proceedings or by or against the Insured;
5. fines or other penalties imposed by a court or tribunal;
6. any dispute, legal proceedings in respect of which the Insured is, or but for the existence of this Policy would be, entitled to indemnity under any insurance policy whether a legal expenses insurance or not or under a legal aid certificate or representation order;
7. any Claim arising out of the deliberate, conscious, intentional or negligent disregard by the Insured of the need to take all reasonable steps to avoid and prevent Claims, disputes, legal proceedings or HMRC Investigations;
8. any dispute or legal proceedings with Government or Local Authority departments concerning the imposition of statutory charges;
9. disputes or legal proceedings between Insureds as specified in the Schedule or any endorsement thereto, or with any parent company or subsidiary company or associated company or partner;
10. any dispute between the Insured and the Coverholder, the Insurer, the Agent, the Delegated Agent, the Appointed Representative or their insurance broker;
 - 11a any dispute or legal proceedings arising out of breach or alleged breach of confidentiality or passing off whether related to intellectual property or not;
 - 11b any dispute or legal proceedings arising out of the ownership or existence of any intellectual property rights;

Inquiry Representation Cover for Occupational Health and Safety Professionals in Ireland

Policy Wording

12. any dispute or legal proceedings arising out of or in connection with actual or alleged defamation or malicious falsehood;
13. any Legal Expenses incurred in respect of or in connection with a judicial review;
14. appeals arising out of legal proceedings to which no Coverholder's consent has been granted;
15. any claim, consequential loss, legal liability or any loss or damage to property directly or indirectly caused by or contributed to by seepage, pollution or contamination of any kind;
16. any Legal Expenses which the Insured should or would have had to incur irrespective of any dispute;
17. any expense, consequential loss, legal liability or any loss or damage to property directly or indirectly caused by or contributed to by:
 - a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
 - b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
18. any loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with (including any action taken in controlling, preventing, suppressing or in any way relating to) any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss;
 - a) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
 - b) any act of terrorism.

For the purposes of this exclusion an act of terrorism means an act including but not limited to the use of force or violence and/or the threat thereof, any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public in fear.

GENERAL CONDITIONS

1. Arbitration

Any dispute between the Insured and the Insurer shall be referred to a single arbitrator who shall be either a solicitor or barrister agreed upon by both parties or failing agreement one who is nominated by the President of the appropriate Law Society or by the Bar Council or appropriate professional body within England & Wales. All apportionment of the costs of the arbitration shall be determined by the arbitrator.

2. Cancellation

This Policy may be cancelled at any time on the instructions of the Insured in writing and the premium shall be adjusted on the basis of the Insurer receiving or retaining a pro rata time on risk premium.

This Policy may also be cancelled by the Insurer giving thirty days' notice in writing to the Insured or their insurance broker at either the Insured's or their insurance broker's last known address and the premium hereon shall be adjusted on the basis of the Insurer receiving or retaining a pro rata time on risk premium. If the Insured is placed in liquidation, receivership or administration or adjudicated bankruptcy or if any application is made to the court or meeting convened for any such purpose, this Policy will lapse and the Insured will be entitled to a pro rata return of premium. Provided always that no return of premium shall be allowed if the Insured has notified a claim.

3. Cooling Off

If the Insured is an individual who is acting for purposes outside their trade, business or profession then the Insured may cancel this Policy with effect from inception. The Insured has a right to cancel within 14 days of insuring or within 14 days of receiving full policy documents by writing to the Agent requesting cancellation and returning the policy documents to Trafalgar Risk Management, The Lloyds Building, 12 Leadenhall Street, London, EC3V 1LP. No charge will be made and any premium paid by the Insured will be refunded.

4. Alteration of Risk

The Insured must notify the Agent immediately in writing of any alteration in risk that materially affects this insurance.

5. Due Observance

The Insured must act with due diligence and at all times act and comply with all the terms, conditions and provisos under this Policy.

6. Proper Law

The parties are free to choose the law applicable to this Policy. Unless specifically agreed to the contrary this insurance shall be subject to the Laws of England and Wales.

7. Data Protection Act 1998

It is agreed by the Insured that any information provided to the Insurer regarding the Insured will be processed by the Insurer, the Coverholder, the Delegated Agent or the Agent in compliance with the provisions of the Data Protection Act 1998 for the purposes of providing insurance and handling claims, if any, which may necessitate providing such information to third parties.

Inquiry Representation Cover for Occupational Health and Safety Professionals in Ireland Policy Wording

CLAIMS CONDITIONS

1. Notification of Claims

It is a condition precedent to the liability of the Insurer that the Coverholder be notified in writing during the Period of Insurance immediately the Insured is aware

of any cause, event or circumstance which has given or may give rise to a dispute a claim or legal proceedings involving the Insured. Where such notification has been given, the Insurer agrees to treat any subsequent claim or legal proceedings in respect of the cause, event or circumstance notified as though the claim or legal proceedings had been made, brought or commenced during the Period of Insurance.

The Coverholder will forward to the Insured a claim form that must be completed and returned immediately.

2. Coverholder's Consent

It is a condition precedent to the liability of the Insurer that their consent to incur Legal Expenses must firstly be obtained in writing. This consent will be given by the Coverholder on behalf of the Insurer if the Insured can satisfy the Coverholder that:

- a) it is reasonable to incur Legal Expenses &/or Professional Expenses having regard to the proportionality between the remedy claimed and the Legal Expenses to be incurred and
- b) where the Insured is defending the other party does not have reasonable prospects of proving the Insured's legal liability

If during the course of a claim the Insured ceases to satisfy the Coverholder in respect of a) or b) above, indemnity will be withdrawn in respect of Legal Expenses. The decision to grant consent or to withhold it will be taken on receipt of:

- a fully completed claim form;
- the information and documentation the Coverholder reasonably requests;
- a legal opinion from the Appointed Representative as to a) and b) above;
- any advice the Coverholder may deem it necessary to take.

With the agreement of the Insured, the Coverholder may provide assistance in settling disputes, the costs of which will be covered under this Policy subject to the payment of the Excess or Increased Excess within the Limits of Insurers' Liability.

The Coverholder at its discretion may require the Insured to obtain an opinion from Counsel at the Insured's expense as to the merits of a claim or legal proceedings such opinion to have regard to the same issues that the Coverholder has in assessing the merits of any claim. If based upon such opinion the Coverholder is satisfied in respect of a) and b) above the Legal Expenses in obtaining that opinion will be paid by the Insurer within the Limits of the Insurer's Liability.

In granting its consent the Insurer undertakes to provide indemnity to the Insured subject to the terms and conditions of this Policy and its Schedule but such consent does not imply that all Legal Expenses will be paid. In particular Legal Expenses for matters that go beyond the immediate scope of the claim or legal proceedings shall be deemed by the Insurer to fall outside the indemnity provided by this Policy. The Coverholder reserves the right to limit its consent by time and or financial amount of Legal Expenses to allow for a review of their continued consent.

If after consent has been granted it is shown that the particular claim or legal proceedings have not been brought within the terms and conditions of this Policy and its Schedule the Coverholder's consent will be withdrawn and no indemnity shall be provided. The Insurer shall be entitled to recover any Legal Expenses previously paid.

If the Insured elects to proceed with the pursuit or defence of a claim or legal proceedings to which the Coverholder's consent has been refused through lack of reasonable prospects as required in b) above if the Insured is successful in such pursuit or defence, the Insurer will pay Legal Expenses incurred after such consent had been refused subject to the terms conditions of this Policy.

3. Instruction and choice of Appointed Representative and Counsel

The Coverholder will choose an Appointed Representative to act on behalf of the Insured in any Claim under certain Sections as specified in the Schedule.

Where recourse is necessary to a lawyer and proceedings are issued, the Insured is free to choose an Appointed Representative to act in the name of and on behalf of the Insured in any legal proceedings to which the Coverholder has consented subject to the Increased Excess. Where a Claim is made by the Insured named on the Schedule and an Employee (including a director or partner of the Insured) then the Employee must appoint the same Appointed Representative as the Insured. The name and address of the Appointed Representative the Insured proposes to instruct must be notified to the Coverholder in writing. The Coverholder will accept such nomination provided the Coverholder is satisfied the proposed Appointed Representative will cooperate and enable the Insured to comply with the terms and conditions of this policy and provided the proposed Appointed Representative's charging rates are fair and reasonable in regard to the particular legal proceedings.

In all other claims the Coverholder will choose the Appointed Representative subject to the Excess.

A dispute arising from the Insured's choice may be referred to Arbitration in accordance with General Condition 1.

The Insured must not, without the written consent of the Coverholder, enter into any agreement with the Appointed Representative as to the basis of calculation of Legal Expenses. The Coverholder may withdraw consent previously given at any time.

In selecting the Appointed Representative the Insured shall have regard to its duty to minimise the cost of any Claim.

In all cases the Appointed Representative shall be appointed in the name of and on behalf of the Insured. If in the course of any Claim the Appointed Representative wishes to instruct Counsel or an expert, Counsel's or the expert's name and an explanation of the necessity for such instruction must be submitted to the Coverholder for consent to the proposed instruction which will not be unreasonably withheld.

Inquiry Representation Cover for Occupational Health and Safety Professionals in Ireland Policy Wording

4. Disclosure

It is a condition precedent to the Insurer's liability that:

- a) The Insured must give the Appointed Representative and the Coverholder all necessary help and information including a complete and truthful account of the facts of the case and all relevant documentary or other evidence in the Insured's possession. The Insured must provide, obtain or execute all documents as necessary and attend meetings or conferences as requested.
- b) The Coverholder is entitled to receive from the Appointed Representative and Insured any information, document or advice in connection with any claim or legal proceedings even if privileged. In addition the Insured must instruct the Appointed Representative to provide the Coverholder with regular updates on the progress of any claim or legal proceedings and inform the Coverholder immediately if and when any circumstance adversely impacts the factors taken into account in granting the Coverholder's consent. On request the Insured will give to the Appointed Representative any instructions necessary to secure the required access.

Indemnity may be withdrawn if the Insured fails to cooperate at all or within a reasonable time with the Coverholder's or the Appointed Representative's requests.

5. Payment of Legal Expenses &/or Professional Expenses

All bills for Legal Expenses which the Insured receives from the Appointed Representative should be forwarded to the Coverholder without delay. If the Coverholder so requires the Insured must ask the Appointed Representative to submit the bill of costs for assessment or certification by the appropriate Law Society, court or tribunal. The Insured is responsible for payment of all Legal Expenses. The Insurer may settle these direct if requested by the Insured to do so. The payment of some Legal Expenses does not imply that all Legal Expenses will be paid.

6. Offer of Settlement

It is a condition precedent to the liability of the Insurer that the Insured must inform the Coverholder in writing as soon as an offer to settle a claim is received and or the Insured proposes to make an offer of settlement. In any settlement, the Insured must have regard to Legal Expenses incurred or likely to be incurred by the Insurer and the recovery thereof.

No indemnity will be provided if the Insured enters into any agreement to settle without the prior written consent of the Coverholder (such consent not to be unreasonably withheld) and the Insurer shall be entitled to recover any Legal Expenses previously paid. If the Insured unreasonably rejects an offer of settlement which the Coverholder recommends acceptance of or makes an offer which the Coverholder does not agree no further indemnity shall be provided. The Insurer may at its absolute discretion decide to pay the Insured the amount of damages that the Insured is claiming or is being claimed against the Insured instead of indemnifying the Insured for Legal Expenses. Where the Insurer exercises this discretion the Insurer will cease to be liable for any further Legal Expenses.

7. Recovery of Costs

Whenever the Insured is awarded costs or under the terms of any settlement where costs are included, those costs are to be repaid to the Insurer. The Insured and their Appointed Representative must make every effort to make a full recovery of costs. Where a settlement purports to be a global or a without costs settlement or where costs are awarded but not recovered, the Insured agrees that a fair and reasonable proportion of that settlement will be deemed costs and due to the Insurer. Where such a settlement is paid in instalments all costs to the Insurer shall be paid first.

8. Appeal Procedure

If, following legal proceedings to which the Coverholder has consented, the Insured wishes to appeal against the judgment or decision of a court or tribunal, the grounds for such appeal must be submitted to the Coverholder through the Appointed Representative immediately or as soon as practicable so that the Coverholder may consider whether to consent to such further action. If an appeal is lodged against a judgment or decision of a court or tribunal made in favour of the Insured following legal proceedings to which the Coverholder has consented, the Insured must notify the Coverholder immediately in order that cover shall continue. The Coverholder will inform the Appointed Representative of its decision. If the Coverholder so requires it the Insured must co-operate in an appeal against the judgment or decision of a court or tribunal.

9. Duty to Minimise

The Insured must take all reasonable precautions to avoid and prevent claims and disputes.

The Insured must use every endeavour and take all reasonable measures to minimise the cost and effect of any claim under this Policy.

10. Fraudulent Claims

If the Insured makes any request for payment under this Policy knowing it to be fraudulent or false in any respect or ought reasonably in the circumstances to know it to be fraudulent or false or where there is collusion between any parties to the dispute, this Policy shall become void and any premiums paid hereunder shall be forfeited and the Insurer shall be entitled to recover any Legal Expenses previously paid.

11. Insolvency or Liquidation of the Insured

If the Insured becomes insolvent or is placed in liquidation during the course of any claim or legal proceedings to which the Coverholder's consent has been given the Coverholder reserves the right to withdraw that consent. The Insured shall be deemed insolvent or in liquidation upon the appointment of an office holder within the meaning given by the Insolvency Act 1986 or upon the appointment of a receiver within the meaning laid down in the Companies Act 1985.

12. Value Added Tax

If the Insured is registered for VAT, the Insurer will not pay the VAT element of any Legal Expenses.

Inquiry Representation Cover for Occupational Health and Safety Professionals in Ireland Policy Wording

COMPLAINTS

The Coverholder is dedicated to providing high quality service and wants to ensure that it maintains this at all times. If the Insured is not satisfied with any part of the service they have received then they should write to the Coverholder who will do their best to resolve the problem.

In the first instance please contact:

The Customer Services Manager
Abbey Legal Protection
Minorities House
2-5 Minorities
London, EC3N 1BJ
Tel: 0870 600 1480
Fax: 0870 600 1481

The Coverholder is authorised and regulated by the Financial Services Authority. Firm Number: 311662

In the event that the Insured remains dissatisfied and wishes to pursue matters further they may be able to refer the matter to the Financial Ombudsman Service.

The Financial Ombudsman Service can normally deal with complaints from private individuals and from small businesses with an annual turnover of less than £1 million (for a group of companies, this means a group annual turnover of less than £1 million). The Financial Ombudsman Service can also help with complaints from charities with an annual income of less than £1 million, and from trusts with a net asset value of less than £1 million. Their details are as follows:

Financial Ombudsman Service
South Quay Plaza
183 Marsh Wall
London, E14 9SR
Tel: 0845 080 1800
www.financial-ombudsman.org.uk

This procedure will not prejudice the Insureds rights to take legal proceedings

FINANCIAL SERVICES COMPENSATION SCHEME

In the event the Insurer fails to meet its obligations and the Insured has turnover or income of less than £1m a year the Insured may be eligible for compensation from the Financial Services Compensation Scheme.

COMMUNICATIONS

Initial notification of a claim must be made in writing by first class post or facsimile to the Coverholder by addressing it to:

Abbey Legal Protection
Minorities House
2-5 Minorities
London
EC3N 1BJ

Tel: 0870 600 1480

Fax: 0870 600 1481

All notices and communications from the Insurer or their representatives to the Insured shall be deemed to have been duly sent if sent to the Insured's address as last declared to the Coverholder or, in relation to any matters arising out of any claim or legal proceedings, if sent to the Appointed Representative.

All notices and communications from the Insured or the Appointed Representative to the Insurer shall be deemed to have been duly sent if sent to the Coverholder at the above address.